

**114CSR80**

**LEGISLATIVE RULE  
WEST VIRGINIA INSURANCE COMMISSIONER**

**SERIES 80  
SPECIAL PROVISIONS REGARDING WORKERS' COMPENSATION RATES**

Section.

114-80-1. General.

114-80-2. Definitions.

114-80-3. Employer Right to Protest Rate Classification and Pay Prior Term's Premium Amount Pending Dispute Resolution.

Appendix A Dispute Resolution Process Approved by the Commissioner

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**§114-80-1. General.**

1.1. Scope.

a. The purpose of this rule is to prohibit cancellation of workers' compensation coverage upon the partial payment of a workers' compensation insurance premium pending resolution of certain disputes concerning premiums.

b. This rule applies to all employers and to all workers' compensation insurance carriers, policies and contracts within the state of West Virginia.

1.2. Authority. -- W. Va. Code §§33-1-10(e)(14) and 33-2-10.

1.3. Filing Date. --

1.4. Effective Date. --

**§114-80-2. Definitions.**

2.1. "Commissioner" means the West Virginia Insurance Commissioner.

2.2. "Private carrier" means any workers' compensation insurance carrier licensed to write workers' compensation insurance by the Commissioner.

2.3. "NCCI" means the National Council on Compensation Insurance, Inc., which is the Commissioner's designated rating organization for workers' compensation insurance in West Virginia.

2.4. "Basic Manual" means NCCI's Basic Manual for Workers' Compensation and Employers' Liability Insurance, as approved by the Commissioner on May 3, 2006.

2.5. "Dispute resolution process" means the process set forth in the Basic Manual as Exhibit 1, as approved by the Commissioner on April 21, 2006; a copy is attached hereto as Appendix A.

2.6. "Internal Review Panel" means the 3-member panel established by NCCI in the dispute resolution process to decide disputes regarding NCCI classifications, manual rules and rating plans.

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2.7. "NCCI final decision" means a final denial of a request for review under the dispute resolution process or, in cases in which the request for review has been granted, a final decision by the Internal Review Panel.

**§114-80-3. Employer Right to Protest Rate Classification and Pay Prior Term's Premium Amount Pending Dispute Resolution.**

3.1. If any employer who disagrees with a classification assignment or payroll allocation assigned to some or all of its employees by its private carrier in any premium invoice and who, in accordance with the terms of the invoice, timely remits a partial premium payment to its private carrier in an amount at least equal to the employer's initial payment made in the previous billing period, then the employer may not be found to be in policy default and the private carrier may not issue a notice of intent to cancel based on nonpayment except in accordance with this rule.

3.2.1. If the employer who has made a timely partial premium payment in accordance with subsection 3.1 of this section also (a) makes a reasonable attempt to resolve its dispute directly with the private carrier and (b) in accordance with the dispute resolution process, sends a written request for review to NCCI that is received by NCCI within thirty days of the beginning of the policy period,

Then the employer may not be found to be in policy default and the private carrier may not issue a notice of intent to cancel based on nonpayment until after issuance of a NCCI final decision: Provided, That if a NCCI final decision has not been rendered within forty-five days of the beginning of the policy period, any employer who had chosen the two-payment option for the prior policy period shall not be found to be in policy default and the private carrier may not issue a notice of intent to cancel based on nonpayment if such employer, in accordance with the terms of the invoice for the second payment, timely remits a second partial premium payment in an amount at least equal to the employer's second payment made in the previous billing period.

3.2.2. A reasonable attempt to resolve the dispute directly with the private carrier pursuant to subsection 3.2.1(a) above means compliance by the employer with any reasonable requests by the private carrier for information from the employer relevant to the employer's dispute, including but not limited to completion of a questionnaire provided to the employer by the private carrier. NCCI will deny a request for review if it determines that the employer has not made a reasonable attempt to resolve the dispute with the private carrier before requesting a dispute resolution review.

3.2.3. After issuance of a NCCI final decision, the private carrier shall send an amended invoice that affords the employer fifteen (15) days to pay any remaining premium due. The private carrier may thereafter cancel any employer who does not pay in accordance with this amended invoice in the same manner as if the employer had not paid the initial invoice: Provided, That any cancellation effected pursuant to this subsection shall be effective from the date of the cancellation

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notice and shall not be retroactive to an earlier date.

3.3. Nothing in this rule shall be interpreted to permit an employer to withhold payment of premium beyond the time periods specified in subsection 3.1. or 3.2 of this section.